

Department of Planning and Environment

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# Richmond Unregulated, Regulated and alluvial Water Sharing Plan-What We Heard

Draft Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2023

February 2023





# Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and waters and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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What We Heard

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# Executive Summary

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## About this document

The *Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2010* will expire in June 2023.

The Department of Planning and Environment (the department) – publicly exhibited a draft replacement water sharing plan, providing an opportunity for water users, broader stakeholders and other interested parties to learn more about proposed changes, and to make submissions and comment on the draft plan.

This report summarises how we engaged with communities, the key issues we heard during the public exhibition and the next steps in finalising the *Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2023*.

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## Background


The department is responsible for surface and groundwater management, including ensuring water security for NSW. We also ensure equitable sharing of surface and groundwater resources, and that water entitlements and allocations are secure and tradeable.

Water sharing plans are the primary legal framework for managing and sharing water in NSW. They are made under the [NSW Water Management Act 2000](#) and are valid for 10 years. The rules in the plans allow equitable sharing of water for all water users, including the environment.


They do this by:

- providing water for the environment by protecting a proportion of the water available for fundamental ecosystem health
- setting limits on the total volume of water extracted to ensure security for all water users
- protecting the water needed to meet basic landholder rights

### Engagement at a glance


 **3**  
phone enquiries

 **367**  
unique website page visits

 **3**  
formal submissions

 **4**  
Face-to-face public information sessions

 **3**  
Aboriginal community sessions

 **1**  
live webinars

- providing water users with a clear picture of when and how water will be available for extraction
- providing flexibility for licence holders in the way they can manage their water accounts
- specifying rules to minimise impacts of extraction on other groundwater users, groundwater-dependent ecosystems, culturally significant sites, water quality and the integrity of the aquifer
- specifying the rules for water trading, that is buying and selling water licences and water allocations
- setting the mandatory conditions that apply to licence holders.

Under the *Water Management Act 2000* water sharing plans are subject to review every 10 years and may be replaced to deliver better outcomes for all water users, including the environment.

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## Consultation

Consultation is an essential part to developing the *Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2023*.

The Richmond River community has been devastated by the recent catastrophic floods. However, there is a legal requirement to replace the water sharing plan.

On 12 August, Jim Bentley, then CEO NSW Water Sector and other senior DPE Water staff met with community representatives from irrigation groups, environmental groups, council, NSW farmers, flood committee members and others to discuss how to proceed with the water sharing planning process.

In recognition of the impact of the 2022 catastrophic floods on the Richmond River community, their current priorities, and to minimise additional stress on the community, the department has committed to not changing daily access to water in the replacement plan. An amendment provision will be included in the replacement plan to enable consultation on access rules within the first 5 years of the plan. The timing of the amendment will consider the communities priorities and ability to effectively engage. Future access rule amendments will be subject to consultation, public exhibition and submission processes.

From 20 October 2022 to 18 December 2022 the draft replacement *Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2023* (the plan) was exhibited publicly. This was an extended exhibition period in consideration of community priorities.

Stakeholders were encouraged to provide feedback directly and through written submissions. The website included a 'Have your say' section that provided details of different ways to make a submission, including via email, direct mail and a downloadable feedback form.

In addition to the feedback provided by those who attended face-to-face and webinar sessions, we received 3 submissions. The valuable feedback received during the public exhibition period and through submissions has helped the department finalise the draft replacement water sharing plan.



## How did we consult?

Between the 20 October 2022 to 18 December 2022 the department consulted with stakeholders and sought their views on the proposed changes to the plan.

Prior to the public exhibition, we identified stakeholders with a potential interest in the plan. These included:

- WaterNSW customers (holders of water access licences and holders of water supply work approvals)
- environmental interest groups
- local Aboriginal land councils
- traditional owners
- community groups
- irrigation groups
- horticulture and dairy groups
- local councils.

WaterNSW customers were contacted via mail (2140 letters were sent) and other groups and individuals were contacted via 7 electronic direct mails (approximately 500 recipients). These communications informed recipients of the plan replacement, ways to access information and invited them to attend one of the public information sessions.

DPE Water public consultation and exhibition periods for the draft *Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2023*, the draft *Water Sharing Plan for the Tweed River Area Unregulated and Alluvial Water Sources 2023* and the draft Far North Coast Regional Water Strategy were run concurrently and joint information sessions were held.

Public exhibition consultation on the draft Richmond plan commenced with an online webinar presentation followed by a question and answer session. Four face to face, public information sessions were held across the plan area. A presentation, communication materials and water planning staff were in attendance to speak with stakeholders and answer questions. In addition, separate meetings were undertaken with Rous County Council and the Goolmangar Water Users Group on 15 November 2022.

## Webinar sessions

A webinar session was held using a virtual meeting platform. Details of the draft plan development and the proposed changes were presented and attendees were able to post questions in the live chat. A link to the recorded presentation was emailed out to attendees after each webinar. Time was allocated at the end of the presentation for clarifications, answering questions and discussion. Table 1 shows the attendance at the webinar.

Table 1. Attendance at webinars

Location	Date	Registered to Attend	Attended
Webinar – Microsoft Teams	Wednesday 9 November, 5 - 6.30pm	17	16

## Face-to-face information sessions

We held four face-to-face stakeholder meetings in locations that were convenient for the majority of stakeholders and the flood affected community. We used a ‘drop in’ approach for the meetings in which staff were available for 3 to 4 hours at each location. Stakeholders attended at any time throughout the four hours to watch a presentation, gather printed information, inspect maps and discuss any questions or concerns one-on-one with staff. Table 2 shows the locations chosen for face-to-face community information events.

Table 2. Attendance at face-to-face meetings

Location	Date	Registered to Attend	Attended
Kyogle	Monday 14 November 2022, 12 – 4 pm	3	5
Casino	Wednesday 16 November 2022, 10am -2 pm	6	11
Wollongbar	Thursday 17 November 2022, 10am – 2pm	10	17
Ballina	Friday 18 November 2022, 10am – 1pm	3	10

## First Nations sessions

Joint DPE Water First Nations consultation for the draft *Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2023* and the draft Far North Coast Regional Water Strategy was undertaken as shown in Table 3.

Table 3. First Nations engagement

Location	Date
Kyogle – Githabul Native Title holders	Monday 14 November 2022, 10am-12pm

Location	Date
Casino – Casino Local Aboriginal Land Council	Wednesday 16 November 2022
Coraki – Aboriginal community members	Tuesday 29 November

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## What we asked

The online submission form focused on the following key proposed changes between the 2010 plan and the 2023 plan:

- 2010 access rules – (regarding unchanged rules)
- New Bungawalbin Creek Tidal Management Zone
- New Bungawalbin Creek Non-Tidal Management Zone
- Trading rules
- Aboriginal community development licences in select water sources
- Conversion to high flow access licences
- New Long-term average annual extraction limits definition
- The new Richmond Area Coastal Floodplain Alluvial Groundwater Source
- Groundwater-dependant ecosystem maps
- Water supply works approvals
- Distance conditions in alluvial aquifers
- Increase in coastal harvestable rights

Although these were the key issues, comments, and discussion on all aspects of the plan were welcome and encouraged.

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## What we heard

Stakeholders raised issues in consultation sessions, formal submissions and email correspondence. When reviewing whether or not issues raised were in or out of scope of the replacement plan the department considered the following:

- Is the issue within the scope of the water sharing plan?
- Is the suggestion consistent with the *Water Management Act 2000*?
- Are existing programs/processes or other departments addressing the issue?
- Does it relate to water charges, costs, operational activities or licensing matters outside of the scope of the water sharing plan?



- Is it likely to affect water availability for basic landholder right users and licence holders, and if so, how?
- Can current legal mechanisms enable the change, or is legislative change required?
- Is it consistent with current policy settings, and if not, can we develop robust, alternative policies within the timeframe for developing the water sharing plan?
- Are there additional costs for the NSW Government?
- Can we investigate the issues within the timeframe for developing the water sharing plan?

Issues raised from public consultation that were out of scope of the water sharing plan, are summarised in Appendix 1. These issues will not be explored further as part of the replacement plan.

### Issues raised in formal submissions

We received feedback on the remake of the through 3 formal submissions. The within scope issues raised fell into 10 issue categories or topics. The feedback is summarised in Table 4 and is being considered in finalising the draft plan.

Table 4. Summary of issues raised in submissions

Issue	In support	Not in support	Comments
Water source and management zone boundaries		1	<p><b>Not in support:</b></p> <ul style="list-style-type: none"> <li>• ‘Ccreating so many sub catchments has helped to restrict trade and complicate cease to pump points’.</li> <li>• ‘The Department still does not understand how a tidal pool works’.</li> </ul>

Issue	In support	Not in support	Comments
Dealings and trade opportunities		3	<p><b>Not in support:</b></p> <ul style="list-style-type: none"> <li>• ‘Division of the tidal pool into two above Coraki with a trade limit of 2500 ML has no scientific basis’</li> <li>• ‘I believe that the plan still gets this area of the river wrong and should treat the whole tidal pool of the Coraki Area Water Source and the Wyrallah Area Water Source as one body of water, as there is no physical barriers and water moves from one to the other.’</li> <li>• ‘DPE to undertake further investigation into the appropriate trading mechanisms and trading zones in order to achieve active and liquid markets to encourage the most efficient use of entitlements and stimulate economic, social, and ecological benefits.’</li> <li>• ‘However I have frequently been asked by politicians and department officials why trading does not happen on the coastal rivers and in the case of our river the document tells the story- there are many pages of reasons why trade is not permitted in every water source and many water sources!. So the reason why is that the rules are too restrictive and I believe they are often in conflict with the National Water Initiative’.</li> </ul>
High flow conversions and other alternatives to low flow extractions		3	<p><b>Not in support:</b></p> <ul style="list-style-type: none"> <li>• ‘There are still no incentives for people to get out of low flow extraction; e.g. hi flow extraction and conversion ratios, flood plain harvesting, farm dams, education to get better water use efficiencies.’</li> <li>• ‘DPE to ensure the regulatory framework for high-flow conversion enables water users to adopt this pathway in practice, such as by ensuring on-farm storage development is feasible, necessary incentives are in place, and water users have sound understanding of processes’.</li> <li>• ‘The reason why there has been no uptake in the past 11 years is that high flow in the coastal areas is during flood events. It is not physically possible in a rapidly rising or falling flood to place a pump in the stream to catch waters for later. If the definition of high flow was less restrictive there may be some uptake.’</li> </ul>

Issue	In support	Not in support	Comments
Consultation		1	<p><b>Not in support:</b></p> <ul style="list-style-type: none"> <li>‘Past experience of the lack of action by DPIE and other water departments to submissions by water user groups and individuals is resulting in more people adopting an attitude of “doesn’t matter what submissions are put forward using on ground experience or questioning the departments’ scientific logic, public consultation is a one way street”.’</li> </ul>
Amendment to access rules within 5 years		1	<p><b>Not in support:</b></p> <ul style="list-style-type: none"> <li>Opposed to changes in cease to pump rules in the first five years of the plan particularly where changes cannot be justified.’</li> </ul>
Harvestable Rights and Long Term Average Annual Extraction Limits		1	<p><b>Not in support:</b></p> <ul style="list-style-type: none"> <li>DPE should provide a mechanism in the WSP to ensure any growth in harvestable rights does not put pressure on extraction limit compliance, in order to avoid reducing access to existing entitlement holders.</li> </ul>
Establishing Bungawalbin Ck tidal and non-tidal management zones	1		<p><b>In support:</b></p> <ul style="list-style-type: none"> <li>‘I think this is a very good idea, as it needs to be separate from the Coraki Source. The Bungawalbin Creek enters the Richmond River below the salinity metering point which sets the cease to pump rules for the Tidal sections of the Richmond and Wilsons Rivers and therefore this metering point did not take into account the salinity entering the Bungawalbin from the lower river in times of low inflows.’</li> </ul>
Access Rules		2	<p><b>Not in support:</b></p> <ul style="list-style-type: none"> <li>‘I believe it is a good move to have the Bungawalbin Creek separated from the Tidal pool of the Coraki Area Water Source, and the pumping restriction rules should be set from the gauge near the junction with the Richmond River.’</li> <li>The issue of salinity gauges not reading in the same units as the units set in the plan for pumping restrictions has not been addressed in the plan. This issue needs to be sorted out as it is unreasonable to be asking water users to do a conversion that professional scientists have difficulty with, and which has no official conversion rate set in the plan.</li> </ul>
Long Term Average Annual Extraction Limit and Basic Landholder Rights Volume Calculations		1	<p><b>Not in support:</b></p> <ul style="list-style-type: none"> <li>‘I do not understand how Basic Landholder Rights extraction can be calculated when neither the stock and domestic extraction nor harvestable rights collection of water are reportable. In reality the only thing that really counts is the pumping restriction and cease to pump rules and compliance to them.’</li> </ul>

Issue	In support	Not in support	Comments
Amendment provision to facilitate the amendment of access rules within the first 5 years of the replacement plan		1	<p><b>Not in support:</b></p> <ul style="list-style-type: none"> <li>'The fear that the department will bring in more constraints and requirements in five years' time has this community worried. These fears include changes to cease to pump rules, daily extraction limits and further limits and costs to trade'</li> </ul>

## Other issues

As well as issues raised in formal submissions, a number of issues were raised throughout the consultation period. Issues raised outside of submissions that were within the scope of the plan were also considered in the finalisation of the plan and are summarised in Table 5

Table 5. Summary of issues raised outside of submissions

Issue	Feedback
Access Rules	<ul style="list-style-type: none"> <li>Pumping restrictions should be considered when amending access rules, however hourly based restrictions may not be an effective restriction for all users</li> <li>Salinity based access rules are overly complex and difficult to comply with</li> <li>Users in Goolmangar Ck would like to see more locally relevant access rules</li> </ul>
High Flow Licences via controlled allocation	<ul style="list-style-type: none"> <li>High flow licences should be made available via controlled allocation as well as via conversion of low flow licences.</li> </ul>
Tidal Zone Extent	<ul style="list-style-type: none"> <li>Pelican Ck tidal limit may be 2km further upstream than is currently mapped and should be reassessed</li> </ul>
Bore setback distances from septic systems.	<ul style="list-style-type: none"> <li>Bore construction restrictions should recognise that aerobic style 'enviro' septic systems would have lower risks to the water source than other septic systems</li> </ul>
Long Term Average Annual Extraction Limit for the coastal floodplain alluvial water source	<ul style="list-style-type: none"> <li>Concern that the unallocated volume of water associated with the proposed coastal floodplain alluvial water source could result in that water being released via controlled allocation process and the associated assumption that the unallocated water belongs to the government and can be sold to the highest bidder. Unallocated water should be considered to be indigenous water.</li> </ul>
Aboriginal community development licences	<ul style="list-style-type: none"> <li>Opportunities for Aboriginal community development licences should be maximised</li> </ul>

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## Future amendment to access rules and future consultation

In recognition of the severe flooding and the current community priorities, the Richmond water sharing plan remake has not changed daily access to water.

Instead, an amendment clause has been included in the plan to facilitate the review and potential amendment of access rules across the plan area, within the first 5 years of the plan. The timing of the amendment will consider the communities ability to engage in consultation.

Any access rule amendments will occur via a full amendment process including a public exhibition and submission phase.

Ongoing community engagement is important to ensure we are identifying the right solutions for the Richmond River region that meet the vision and needs of communities, the environment and industries.

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## Next steps

Feedback and issues raised within scope of the water sharing plan are considered by the department before recommending a replacement water sharing plan to the Minister responsible for water.

Before deciding to replace the plan, the Minister must seek agreement from the Minister responsible for the Environment. The department expects the *Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2023* will be in force by 1 July 2023.

The department will publish a background document this will include a summary of the changes made because of public consultation.

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## More information

The draft *Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2023* and supporting factsheets, will be available on the [NSW Department of Planning and Environment's website](#) until the new plan commences on 1 July 2023.

After that date, the new plan and supporting information will be available [here](#).

# Appendix 1: Out-of-scope issues

Managing water resources in New South Wales relies on a range of legislation, initiatives and cooperative arrangements with other agencies. Many issues that are out of scope of a water sharing plan are managed by other agencies, including some issues relating to:

- complying to plan rules
- assessing development applications,
- the costs and process of obtaining water licenses and works approvals
- pollution and contamination of water sources.

Table 6 outlines the criteria for and examples of out-of-scope issues.

Table 6. Assessment criteria for identifying whether an issue is out of scope

Assessment criteria	Comment/Example
Does the issue relate to water charges, costs, infrastructure proposals, operational activities or a licensing matter?	These are issues with the implementation and operation of water management that a water sharing plan cannot address
Is the issue about including descriptions or explanations within the plan?	The water sharing plan is a legal document and states the rules relevant to water sharing. Other documents provide supporting information that describe how water is managed and how decisions have been made.
Is another program or process addressing the issue, or is it the responsibility of another department?	Proposed or current land development activities such as mine approvals, road tunnel developments or water pollution are managed under other legislation by other departments.  The <i>Access Licence Dealing Principle Order 2004</i> is the basis for assessing the local impacts of water extraction, when an applicant seeks approval to trade water or construct a new water supply work.
Does the issue require time and resources beyond the time frame to review the water sharing plan?	For example, a study on the effects of climate change in a particular groundwater source.
Is the issue consistent with the current legislative and policy framework?	A water licence is required for any activities that intercept or extract groundwater unless a valid exemption applies.

Table 7 summarises issues raised in formal submissions that are outside of scope of the water sharing plan.



Table 7. Summary of out-of-scope issues raised in submissions

Issue	Comments
<b>Metering</b>	<ul style="list-style-type: none"> <li>• Under the Water Reform Action Plan (WRAP), which was released in December 2017, the NSW Government has committed to a new metering framework. The government released the WRAP in response to the independent investigation into NSW water management and compliance, conducted by Ken Matthews, AO (the Matthews Report) and the Murray–Darling Basin Water Compliance Review.</li> <li>• The new metering framework includes the: <ul style="list-style-type: none"> <li>– NSW Non-Urban Water Metering Policy</li> <li>– metering-related provisions of the Water Management (General) Regulation 2018</li> <li>– metering-related provisions of the <i>Water Management Act 2000</i>.</li> </ul> </li> </ul>
<b>Licensing costs and processes</b>	<ul style="list-style-type: none"> <li>• IPART (Independent Pricing and Regulatory Tribunal) determines costs associated with licences and approvals.</li> </ul>
<b>Dealing costs and processes</b>	<ul style="list-style-type: none"> <li>• Dealings costs and processes sit outside the water sharing plan. The water sharing plan sets the rules for where dealings can happen but does not determine the cost or process for assessment.</li> </ul>
<b>Dealings policy and framework</b>	<ul style="list-style-type: none"> <li>• The dealing framework sits in the <i>Access Licence Dealing Principle Order 2004</i>. This guides decisions on trade for example trading from a mixed right dam. Individual water sharing plans cannot override the <i>Access Licence Dealing Principle Order 2004</i>.</li> </ul>
<b>Harvestable Rights</b>	<ul style="list-style-type: none"> <li>• Harvestable rights percentages and use restrictions for the Richmond plan area are set under the <a href="#">Harvestable Rights (coastal-draining catchments) Order 2022</a></li> </ul>
<b>Stream Order</b>	<ul style="list-style-type: none"> <li>• The stream order, which influences where in-river dams can be built, is determined by the Hydro Line spatial dataset established under the <a href="#">Water Management (General) Regulation 2018</a></li> </ul>
<b>Fixed, Numeric LTAAEL and Sustainable LTAAEL</b>	<ul style="list-style-type: none"> <li>• The introduction of a fixed, numeric Long Term Average Annual Extraction Limit (LTAAEL) is an approach being adopted as coastal water sharing plans are remade. It improves clarity and prevents the growth in extraction that could occur where a plan simply references the volumes of licences and entitlements. Introduction of fixed, numeric LTAAELs is separate to developing sustainable LTAAELs in coastal plans.</li> <li>• DPE Water is in the very early stages of investigating a method to set a sustainable LTAAEL for coastal plans. Key stakeholders will be advised of possible sustainable extraction limit methods when there is information to provide</li> </ul>
<b>Notification of Cease to Pump and other access rules</b>	<ul style="list-style-type: none"> <li>• Notification of access rules is not within the scope of the water sharing plan. DPE Water is aware of the interest of water users within the Richmond plan area and across the state in relation to having ‘push’ type access rule notification system.</li> <li>• DPE Water is working with WaterNSW in this area.</li> </ul>

